

REMARKS

On December 2, 2008, the U.S. Patent Office issued a non-final office action wherein the independent claims of the present application were rejected under 35 U.S.C. § 103(a) as being unpatentable over, *inter alia*, U.S. patent number 7,214,133 to Jen et al., which was filed in the United States on May 9, 2003.

The Jen et al. reference is not eligible for the purpose of rendering a rejection under 35 U.S.C. § 103(a). Jen et al. (outside the aforementioned obviousness rejection) can only qualify as prior art against the present application under 35 U.S.C. § 102(e).

The presently claimed invention was actually reduced to practice in the United States no later than April 8, 2003, which is prior to the filing date of the Jen et al. reference.

Jen et al. is, therefore, ineligible for the purpose of a rejection under 35 U.S.C. § 103(a).

A declaration under Rule 131 is submitted with this response and in support of the aforementioned contentions.

CONCLUSIONS

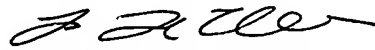
The Applicant's representatives have evidenced that the presently claimed invention was actually reduced to practice prior to the filing date of the Jen et al. reference. Jen et al. is, therefore, not prior art against the present application. Absent the Jen et al. reference, the Examiner has failed to disclose the presence of each and every element of the presently claimed invention in the prior art. The Examiner, therefore, has failed to make a *prima facie* case of obviousness and the rejection is overcome.

The Applicant respectfully requests the passage of the present application to allowance. The Examiner is invited to contact the Applicant's undersigned representative with any questions concerning this matter.

Respectfully submitted,
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